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OFFICE OF PETITIONS

In re Application of	:
Maropsis, et al.	: DECISION ON APPLICATION
Application No. 09/417,266	: FOR PATENT TERM ADJUSTMENT
Filed: August 24, 2005	:
Attorney Docket No. 8285/238-1	:

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT", filed August 24, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **twenty-two (22) days**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **twenty-two (22) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 30, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is twenty-four (24) days.

The Office initially determined a patent term adjustment of twenty-four (24) days based on an adjustment for PTO delay of one hundred eleven (111) and eighty-seven (87) days, pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by thirty-one (31) days and ninety-four (94) days of applicant delay pursuant to 37 C.F.R. §1.704(b), and twenty-eight (28) and twenty-one (21) days pursuant to 37 C.F.R. §1.704(c)(8).

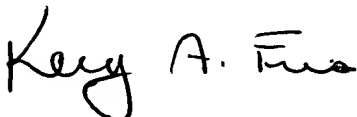
A review of the record reveals that Applicants should have been assessed an additional delay of two (2) days. A Notice of Allowance was mailed on March 10, 2003. Applicants did not file the issue fee until June 12, 2003, made timely for purposes of avoiding abandonment by including a Certificate of Mailing dated June 9, 2003. However, under 37 C.F.R. §1.704(f), Certificates of Mailing are not taken into account in the PTA calculation.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **twenty-two (22) days** (198 (87+111) days of PTO delay, reduced by 176 (21+94+2+28+31) days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, no fee was required.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation